IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 23081 of 1994

Between:

1 The Member Secratary, A.P. State Electricity Board,
Vidut Soudha , Khairatabad,
Hyderabad.
2 The Superintending Engineer, Operation Circle, Sec'bad,
Mint Compound, Hyderabad.
3 The Divisional Engineer/ Electrical E.M.T. Lines & Sub-Station,
A.P.S.E.B, Erragadda, Hyderabad.

..... PETITIONERS

AND

1 Sri Shaik Nazeer, C/o. Sri K.V.R.Choudary,
1-1-342, Jawahar Nagar,
Hyderabad-20.
2 The Chairman, The Addl. Industrial Tribunal-cum-Addl.,
Labour Court, Chandra Vihar Complex,
I Floor, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction calling for the records of the 2nd respondent relating to the issuance of order in M.P.No.57/1993, dt.19.7.1994, quash the same as arbitrary, illegal and without jurisdiction and violative of the fundamental rights guaranteed to the petitioners under Art.14 of the constitution of India and also violative of the proceedings of the Industrial Disputes Act.

Counsel for the Petitioner:MR.S.RAVINDRANATH

Counsel for the Respondents:MR.Y.JAGAN MOHAN-Not present

The Court made the following :

O R D E R:

This Writ Petition is filed challenging the order passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in M.P.No.57 of 1993, dated 19-07-1994.

2. The matter relates to the claim of payment of Dearness Allowance for the period from March 1990 to July 1990.

3. It is the case of the first respondent that he was sent for training to Bangalore and during his stay, he was paid Rs.21/- per day, whereas, he is entitled to Rs.150/- per day as per the Board proceedings in B.P.Ms.No.855, dated 20-11-1982. The learned Tribunal passed common order in M.P.Nos.57 of 1993 and 58 of 1993, dated 19-07-1994, allowing the claim for Rs.15,738/- in each petition. Assailing the said Order in M.P.No.57 of 1993, the present Writ Petition has been filed by the Management of Andhra Pradesh State Electricity Board, Vidyut Soudha, Khairatabad.

4. The learned counsel for the petitioner submits that the order of the Tribunal is wholly illegal and without any jurisdiction.
The learned counsel also would submit that the Tribunal has not discussed as to how the petitioner is entitled to Rs.15,738/- towards the balance of Dearness Allowance. Apart from that, the learned counsel would also submit that as the very entitlement is disputed, the same cannot be agitated and that the claim cannot be made Under Section 33C(2) of the Industrial Disputes Act, 1947 (for short “the Act”). Therefore, the learned counsel submits that the order passed by the Tribunal is illegal and contrary to law.

5. The learned counsel for the respondent is not present.

6. Heard the learned counsel for the petitioner and perused the order under challenge.

7. The claim is made under Section 33C(2) of the Act. The claim relates to arrears of Dearness Allowance. But, however,
I find that the learned Tribunal has not discussed as to how it had arrived at the amount of Rs.150/- per day. The Tribunal has to decide the entitlement first, and thereafter, compute the benefits. Admittedly, in this case, the Tribunal has not recorded any such finding as to the maintainability, entitlement and calculation. Thus, I find that the Tribunal has not considered the matter in proper perspective and the matter requires reconsideration in the hands of the Tribunal.

8. Under those circumstances, the impugned order is set aside and the matter is remitted back to the Tribunal for fresh consideration. The Tribunal shall issue notices to the parties concerned and receive the evidence, if any, adduced by the parties concerned, and pass appropriate orders within a period of four months from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is allowed. No costs.

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G.BIKSHAPATHY,J

Dated: 28-10-2004

Prv

To

1 The Chairman, The Addl. Industrial Tribunal-cum-Addl.,
Labour Court, Chandra Vihar Complex,
I Floor, Hyderabad.

2 Two CD copies